

Department of Veterans Affairs

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issued to the veteran setting forth the reasons for the decision, and the evidence upon which it is based. The veteran will be informed of his or her appellate rights and right of representation. (For information concerning the conduct of the hearing see § 3.103 (c) and (d) of this chapter).

(4) When a reduction of subsistence allowance is found to be warranted following consideration of any additional evidence submitted, the effective date of the reduction or discontinuance shall be as specified under the provisions of § 21.324 of this part.

(Authority: 38 U.S.C. 5112, 5113)

[54 FR 40872, Oct. 4, 1989]

ACCOUNTABILITY

§ 21.430 Accountability for authorization and payment of training and rehabilitation services.

(a) *General.* VA shall maintain policies and procedures which provide accountability in the authorization and payment of program costs for training and rehabilitation services. The procedures established under this section are applicable to all program costs except subsistence allowance (or the optional allowance at Chapter 34 rates). Policies and procedures governing payment of subsistence allowance are governed by §§ 21.260 through 21.276, and §§ 21.320 through 21.334.

(b) *Determining necessary costs for training and rehabilitation services.* The estimates of program costs during a calendar year or lesser period shall be based upon the services necessary to carry out the veteran's rehabilitation plan during that period (§§ 21.80 through 21.98). The estimates will be developed by the VBA case manager. If additional approval is required, the VBA case manager shall secure such additional approval prior to authorization of services.

(c) *Vocational Rehabilitation and Counseling (VR&C) Officer's review of program costs.* The VR&C Officer will review the program costs for the services in paragraphs (c)(1) through (c)(3) of this section if the case manager's program cost estimate for a calendar year exceeds \$25,000. The VR&C Officer may not delegate this responsibility. The case manager will neither sign a

rehabilitation plan nor authorize expenditures before the VR&C Officer approves the program costs. The services subject to this review are:

(1) Providing supplies to help establish a small business;

(2) A period of extended evaluation; or

(3) A program of independent living services.

(Authority: 38 U.S.C. 3115(b)(4))

[49 FR 40814, Oct. 18, 1984, as amended at 51 FR 45767, Dec. 22, 1986; 55 FR 25975, June 26, 1990; 62 FR 17710, Apr. 11, 1997]

CROSS-REFERENCES: See § 21.156. Other incidental goods and services. § 21.258. Special assistance for veterans in self-employment.

Subpart B—Claims and Applications for Educational Assistance

AUTHORITY: 38 U.S.C. 501(a), ch. 51, unless otherwise noted.

EDITORIAL NOTE: The regulations formerly appearing under this subpart were revoked at 30 FR 14103, Nov. 9, 1965. That order provided in part, "these regulations remain in force insofar as they are pertinent to any problems, appeals, litigation, or determinations of liability of educational institutions or training establishments for overpayments under 38 U.S.C. 1666."

CLAIMS

§ 21.1030 Claims.

The veteran must file a specific claim for educational assistance allowance in the form prescribed by the Administrator. Servicepersons must consult with their service education officer before applying for educational assistance.

(Authority: 38 U.S.C. 3471)

[48 FR 37971, Aug. 22, 1983]

§ 21.1031 Informal claims.

(a) The Department of Veterans Affairs will consider any communication from a veteran, an authorized representative or a Member of Congress to be an informal claim, if it indicates an intent to apply for educational assistance. If the veteran has not filed a formal claim, the Department of Veterans Affairs will send him or her an application form when it receives an informal

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claim. If the Department of Veterans Affairs receives the application form within 1 year after the date it was sent to the veteran, the Department of Veterans Affairs will consider it filed on the date of receipt of the informal claim.

(Authority: 38 U.S.C. 3471)

(b) The act of enrolling in an approved school does not in itself constitute an informal application.

[31 FR 6771, May 6, 1966, as amended at 48 FR 37971, Aug. 22, 1983]

§ 21.1032 Time limits.

The provisions of this section are applicable to original applications, formal or informal, and to applications for increased educational assistance allowance because of a dependent.

(Authority: 38 U.S.C. 3471)

(a) *Completion of claim.* The Department of Veterans Affairs will consider a claim to be abandoned when the Department of Veterans Affairs requests evidence in connection with a claim, and the veteran does not furnish the evidence within 1 year after the date of the request. After the expiration of 1 year, the Department of Veterans Affairs will not take further action unless a new claim is received.

(Authority: 38 U.S.C. 5103(a))

(b) *New claim.* After the claim is abandoned, any subsequent communication which is an informal claim is a new application. The date of receipt of the communication is the date of application.

(Authority: 38 U.S.C. 3471)

(c) *Failure to furnish claim or notice of time limit.* (1) VA's failure to furnish any form or information concerning the right to file a claim or to furnish notice of the time limit for the filing of a claim will not extend the periods allowed for these actions.

(2) VA's failure to furnish a veteran or serviceperson notice of the time limit within which evidence must be submitted to perfect a claim, or notice of the time limit within which to challenge an adverse VA decision shall extend the time limit for such action in

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accordance with the provision of § 3.110 of this chapter.

(Authority: 38 U.S.C. 5101, 5113)

(d) *Time limit for filing a claim for an extended period of eligibility.* A claim for an extended period of eligibility as described in § 21.1043 must be received by the Department of Veterans Affairs by the latest of the following dates:

(1) October 17, 1981,

(Authority: 38 U.S.C. 3462(a))

(2) One year from the date on which the veteran's original period of eligibility ended,

(3) One year from the date on which the veteran's physical or mental disability ceased to prevent him or her from beginning or resuming the veteran's chosen program of education.

(Authority: 38 U.S.C. 3462)

CROSS REFERENCES: *Due process; procedural and appellate rights with regard to disability and death benefits and related relief.* See § 3.103 of this chapter.

Computation of time limit. See § 3.110 of this chapter.

[38 FR 14930, June 7, 1973, as amended at 39 FR 43220, Dec. 11, 1974; 44 FR 62494, Oct. 31, 1979; 45 FR 67092, Oct. 9, 1980; 48 FR 37971, Aug. 22, 1983; 54 FR 28676, July 7, 1989]

Subpart C—Survivors' and Dependents' Educational Assistance Under 38 U.S.C. Chapter 35

AUTHORITY: 38 U.S.C. 501(a), 512, 3500–3566, unless otherwise noted.

GENERAL

§ 21.3001 Delegation of authority.

Except as otherwise provided, authority is delegated to the Under Secretary for Benefits and to supervisory or administrative personnel within the jurisdiction of the Education Service, Veterans Benefits Administration, designated by him or her to make findings and decisions under 38 U.S.C. chapter 35 and the applicable regulations, precedents and instructions, as to the program authorized by this subpart.

(Authority: 38 U.S.C. 512(a))

[61 FR 26108, May 24, 1996]